

Congress of the United States
Washington, DC 20515

April 21, 2005

Mr. R. Alexander Acosta
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
900 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Acosta:

We write with an urgent request that you intervene to preempt discriminatory new voter identification requirements passed by the Georgia General Assembly on March 31, 2005, amending Chapter 2 of Title 21 of the O.C.G.A. The bill is pending before Governor Sonny Perdue, who has until May 10 to sign or veto the measure. Although the Governor's office has indicated support for the measure, the bill will also become law if he takes no action.

These provisions, if implemented, would constitute the most inflexible measures in the country for screening prospective voters, mandating one of six forms of government-issued photo identification at the polls. Notably, this legislation lacks an additional authentication option adopted by other states with photo identification requirements and currently available under state law. These burdensome identification requirements fall well within the historical line of barriers to the ballot box and should be subject to intense scrutiny during the Voting Rights Act Section 5 "preclearance" process and further review under Section 2 of the Act as a discriminatory voting practice or procedure (42 U.S.C. § 1973b).

As you are well aware, Section 5 of the Voting Rights Act (42 U.S.C.A. § 1973c) was passed for the express purpose of ensuring that jurisdictions with a history of discrimination against minority voters would be subject to vigorous oversight by the Justice Department and guaranteeing that this terrible history would never be repeated. Clearly, the proposed new voter identification provisions are covered by Section 5 and are subject to your immediate review. As you are no doubt aware, under Section 5, any change with respect to voting in a covered jurisdiction -- or any political subunit within it -- cannot legally be enforced unless and until the jurisdiction first obtains preclearance. Further, preclearance requires proof that the proposed voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group.

Our objections to voter identification provisions are grounded in history as well as contemporary evidence. During their day, poll taxes and literacy tests, which were also said to protect against fraud and breed confidence in elections (as the Georgia law purports to do), had the direct effect of erecting a barrier to minority voters. The Voting Rights Act of 1965

specifically outlawed these and other similar devices because they could be arbitrarily administered by local registrars and state officials in a discriminatory manner. We strongly believe that requiring government-issued photo identification at the polling place would inevitably create similar barriers and hurdles for racial and ethnic minority voters and would have a chilling effect on voter participation.

The negative effect of these provisions has been widely recognized at the state and federal level. Consider the following:

- The Federal Elections Commission noted in its 1997 report to Congress that photo identification entails major expenses, both initially and in maintenance, and presents an undue and potentially discriminatory burden on citizens in exercising their basic right to vote. The burden of this requirement would fall disproportionately and unfairly upon racial and ethnic minority voters, as well as voters with disabilities, since a disproportionate number have neither identification nor the financial means to acquire it. For this reason, the vast majority of states recognize the barriers of photo identification and have adopted other identification procedures.
- On November 5, 2001 a federal court prohibited the use of an identification requirement, with an alternative signature attestation option, at the polls in Lawrence, Massachusetts.¹ Both the Department and private plaintiffs argued, and the court found, that “the burden imposed by this requirement will fall disproportionately on the Latin American community, thereby violating Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.”
- The Department of Justice has taken issue with identification requirements for having a discriminatory impact on minority voters. In the City of Lawrence case, the Department noted that, “our experience in jurisdictions around the country suggests that minority voters – especially those who do not have the required identification with them at the polls ... – may be disproportionately disadvantaged by such [identification] requirements, either by difficulties at the polling place or by fears of such mishaps that make them unwilling to go to the polls.”²

¹ Carolina Morris v. City of Lawrence, No. 01-11889WGY (D.C. Mass. Nov. 5, 2001) (order granting preliminary injunction)

² Letter to Steven P. Perlmutter, Boston MA, October 29, 2001, from the Department of Justice on written identification requirements, from Stephen B. Pershing, Voting Section.

Mr. R. Alexander Acosta
Page Three
April 21, 2005

- In a directly analogous case, the Department objected to the use of photo identification requirements without also permitting a signature attestation for first time voters under Section 5 of the Voting Rights Act because it had a disparate impact on minority electoral participation. Since black voters were found four to five times less likely to have photo identification, the Department believed that this requirement would have a “retrogressive effect on the opportunities of black voters” and would likely “have a disproportionately adverse impact on black voters in the state.”³

We believe that there are many voters who simply do not have identification and requiring them to purchase identification would be tantamount to requiring them to pay a poll tax. Moreover, as the Department has argued in the past, the burden of this requirement would fall disproportionately and unfairly upon racial and ethnic minority voters, as well as voters with disabilities, since a disproportionate number have neither identification nor the financial means to acquire it. A burden such as this, which disproportionately affects minorities, would clearly be retrogressive under Section 5 and not subject to preclearance.

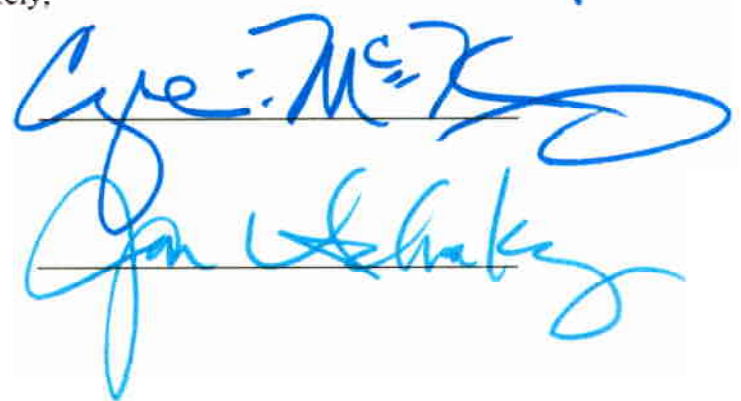
We know you to be a man of integrity who takes his responsibilities under the law quite seriously, and we would hope that you will not allow such an obvious and discriminatory limitation on voting rights to take effect particularly during the year of the 40th anniversary of the passage of the Voting Rights Act.

We thank you for your immediate attention to this matter and look forward to meeting with you as soon as possible to discuss our views. Please reply through Perry Apelbaum or Ted Kalo of my Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504, fax: 202-225-4423).

Sincerely,



J. Edgar Hoover



Cyre McRae

³ Letter to Assistant Attorney General, Baton Rouge LA, November 21, 1994 from the Department of Justice on the use of photo ID from Deval L. Patrick, Assistant Attorney General.

Beni Savel

Dennis Kwanich

Murrell D. Feizell

Jose E. Soriano

Samuel Brown

Daniel Scott

Paul Fathali

By Scott

Charles Rangel

Sandra J. Sanchez

John Smith

Michael Jones

E. Lounsbury

Melvin L. Watt

John Banner

Ann Jefferson

Jack Curran

John Lewis